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SENATE BILL 47

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

RICHARD M ROMERO

AN ACT

RELATING TO PUBLIC OFFICERS AND EMPLOYEES; AMENDING THE PUBLIC  
EMPLOYEES RETIREMENT ACT, THE JUDICIAL RETIREMENT ACT AND THE  
MAGISTRATE RETIREMENT ACT TO ALLOW THE PURCHASE OF SERVICE  
CREDIT BY INSTALLMENT CONTRACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 10-11-4 NMSA 1978 (being Laws 1987,  
Chapter 253, Section 4, as amended) is amended to read:

"10-11-4. SERVICE CREDIT--REQUIREMENTS FOR--FORFEITURE--  
REINSTATEMENT.--

A. Personal service rendered an affiliated public  
employer by a member shall be credited to the member's service  
credit account in accordance with retirement board rules and  
regulations. Service shall be credited to the nearest month.  
In no case shall any member be credited with a year of service

1 for less than twelve months of service in any calendar year or  
2 more than a month of service for all service in any calendar  
3 month or more than a year of service for all service in any  
4 calendar year.

5 B. Personal service rendered an affiliated public  
6 employer prior to August 1, 1947 shall be credited to a member  
7 if the member acquires one year of service credit for personal  
8 service rendered an affiliated public employer.

9 C. Personal service rendered an affiliated public  
10 employer after July 31, 1947 but prior to the date the public  
11 employer became an affiliated public employer is prior service  
12 and shall be credited to a member if:

13 (1) the member acquires five years of service  
14 credit for personal service rendered an affiliated public  
15 employer; and

16 (2) the member pays the association the amount  
17 determined in accordance with Subsection D of this section.

18 D. The purchase cost for each month of service  
19 credit purchased under the provisions of this section is equal  
20 to the member's final average salary multiplied by the sum of  
21 the member contribution rate and employer contribution rate  
22 determined in accordance with the coverage plan applicable to  
23 the member at the time of the written election to purchase.

24 [~~Full~~] Payment shall be made in a single lump-sum amount or by  
25 entering into an installment contract with the retirement board

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1 in accordance with the procedures and terms established by the  
2 board. Installment contracts may be paid by payroll deduction.  
3 The retirement board is authorized to set the rate of interest  
4 to be charged in installment contracts. The portion of the  
5 purchase cost derived from the employer contribution rate shall  
6 be credited to the employer accumulation fund and shall not be  
7 refunded to the member in the event of cessation of membership.  
8 In no case shall any member be credited with a month of service  
9 for less than the purchase cost as defined in this section.

10 E. Service credit shall be forfeited if a member  
11 terminates employment with an affiliated public employer and  
12 withdraws the member's accumulated member contributions.

13 F. A member or former member who is a member of  
14 another state system or the educational retirement system and  
15 who has forfeited service credit by withdrawal of member  
16 contributions may reinstate the forfeited service credit by  
17 repaying the amount withdrawn plus compound interest from the  
18 date of withdrawal to the date of repayment at the rate set by  
19 the retirement board. Withdrawn member contributions may be  
20 repaid in increments of one year in accordance with the  
21 procedures established by the retirement board. [Full] Payment  
22 of each one-year increment shall be made in a single lump-sum  
23 amount or by entering into an installment contract with the  
24 retirement board in accordance with procedures and terms  
25 established by the board. Installment contracts may be paid by

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1 payroll deduction. The retirement board is authorized to set  
2 interest to be charged in installment contracts."

3 Section 2. Section 10-11-7 NMSA 1978 (being Laws 1987,  
4 Chapter 253, Section 7, as amended) is amended to read:

5 "10-11-7. CREDITED SERVICE--PURCHASE OF SERVICE.--

6 A. A member who entered an armed service of the  
7 United States may purchase credited service for periods of  
8 active duty, subject to the following conditions:

9 (1) the member pays the association the  
10 purchase cost determined according to Subsection D of this  
11 section;

12 (2) the member has five or more years of  
13 credited service acquired as a result of personal service  
14 rendered in the employ of an affiliated public employer;

15 (3) the aggregate amount of credited service  
16 purchased under this subsection does not exceed five years  
17 reduced by any period of credited service acquired for military  
18 service under any other provision of the Public Employees  
19 Retirement Act; and

20 (4) credited service may not be purchased for  
21 periods of active duty that are used to obtain or increase a  
22 benefit from another retirement program.

23 B. A member who was employed by a utility company,  
24 library, museum, transit company or by a nonprofit organization  
25 administering federally funded public service programs, which

1 utility company, library, museum, transit company or nonprofit  
2 organization administering federally funded public service  
3 programs or federally funded public service programs  
4 administered by a nonprofit organization are subsequently taken  
5 over by an affiliated public employer, or a member who was  
6 employed by an entity created pursuant to a joint powers  
7 agreement between two or more affiliated public employers for  
8 the purpose of administering or providing drug or alcohol  
9 addiction treatment services irrespective of whether the entity  
10 is subsequently taken over by an affiliated public employer, may  
11 purchase credited service for the period of employment subject  
12 to the following conditions:

13 (1) the member pays the association the  
14 purchase cost determined according to Subsection D of this  
15 section;

16 (2) the member has five or more years of  
17 credited service acquired as a result of personal service  
18 rendered in the employ of an affiliated public employer; and

19 (3) the aggregate amount of credited service  
20 purchased under this subsection does not exceed five years.

21 C. A member who was appointed to participate in a  
22 cooperative work study training program established jointly by  
23 the state highway and transportation department and the  
24 university of New Mexico or New Mexico state university may  
25 purchase credited service for the period of participation

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1 subject to the following conditions:

2 (1) the member pays the association the  
3 purchase cost determined according to Subsection D of this  
4 section;

5 (2) the member has five or more years of  
6 credited service acquired as a result of personal service  
7 rendered in the employ of an affiliated public employer; and

8 (3) the aggregate amount of credited service  
9 purchased under this subsection does not exceed five years.

10 D. Except for service to be used under a state  
11 legislator coverage plan, the purchase cost for each month of  
12 credited service purchased under the provisions of this section  
13 is equal to the member's final average salary multiplied by the  
14 sum of the member contribution rate and employer contribution  
15 rate, determined in accordance with the coverage plan applicable  
16 to the member at the time of the written election to purchase.  
17 The purchase cost for each year of credited service to be used  
18 under a state legislator coverage plan is equal to the sum of  
19 the member contribution and an employer contribution of ten  
20 times the annual amount of pension per year of credited service  
21 under the state legislator coverage plan applicable to the  
22 member. [Full] Payment shall be made in a single lump-sum  
23 [within sixty days of the date the member is informed of the  
24 amount of the payment] amount or by entering into an installment  
25 contract with the retirement board in accordance with the

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1 procedures and terms established by the board. Installment  
2 contracts may be paid by payroll deduction. The retirement  
3 board is authorized to set the rate of interest to be charged in  
4 installment contracts. The portion of the purchase cost derived  
5 from the employer contribution rate shall be credited to the  
6 employer accumulation fund and shall not be paid out of the  
7 association in the event of cessation of membership. In no case  
8 shall any member be credited with a month of service for less  
9 than the purchase cost as defined in this section.

10 E. A member shall be refunded, upon written request  
11 filed with the association, the portion of the purchase cost of  
12 credited service purchased under this section that the  
13 association determines to have been unnecessary to provide the  
14 member with the maximum pension applicable to the member. The  
15 association shall not pay interest on the portion of the  
16 purchase cost refunded to the member.

17 F. A member of the magistrate retirement system who  
18 during his service as a magistrate was eligible to become a  
19 member of the public employees retirement system and elected not  
20 to become a member of that system may [~~upon the effective date~~  
21 ~~of this subsection~~] purchase service credit under the public  
22 employees retirement system for the period for which the  
23 magistrate elected not to become a public employees retirement  
24 system member, by paying the amount of the increase in the  
25 actuarial present value of the magistrate pension as a

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1 consequence of the purchase as determined by the association.  
2 [~~Full~~] Payment shall be made in a single lump-sum amount or by  
3 entering into an installment contract with the retirement board  
4 in accordance with procedures and terms established by the  
5 board. Installment contracts may be paid by payroll deduction.  
6 The retirement board is authorized to set the rate of interest  
7 to be charged in installment contracts. Except as provided in  
8 Subsection E of this section, seventy-five percent of the  
9 purchase cost shall be considered to be employer contributions  
10 and shall not be refunded to the member in the event of  
11 cessation of membership. "

12 Section 3. Section 10-12B-5 NMSA 1978 (being Laws 1992,  
13 Chapter 111, Section 5) is amended to read:

14 "10-12B-5. SERVICE CREDIT--REINSTATEMENT OF FORFEITED  
15 SERVICE--PRIOR SERVICE--MILITARY SERVICE. --

16 A. Personal service rendered by a member shall be  
17 credited to the member's service credit account in accordance  
18 with board rules and regulations. Service shall be credited to  
19 the nearest month. In no case shall any member be credited with  
20 a year of service for less than twelve months of service in any  
21 calendar year or more than a month of service for all service in  
22 any calendar month or more than a year of service for all  
23 service in any calendar year.

24 B. Service credit shall be forfeited if a member  
25 leaves office and withdraws the member's accumulated member

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1 contributions. A member or former member who is a member of a  
2 state system or the educational retirement system who has  
3 forfeited service credit by withdrawal of member contributions  
4 may reinstate the forfeited service credit by repaying the  
5 amount withdrawn plus compound interest from the date of  
6 withdrawal to the date of repayment at a rate set by the board.  
7 Withdrawn member contributions may be repaid in increments of  
8 one year in accordance with procedures established by the board.  
9 [Full] Payment of each one-year increment shall be made in a  
10 single lump-sum amount or by entering into an installment  
11 contract with the retirement board in accordance with procedures  
12 and terms established by the board. Installment contracts may  
13 be paid by payroll deduction. The retirement board is  
14 authorized to set the rate of interest to be charged in  
15 installment contracts.

16 C. Service credit that a member would have earned if  
17 the member had not elected to be excluded from membership may be  
18 purchased if the member pays the purchase cost determined  
19 pursuant to the provisions of Subsection F of this section.

20 D. A member who during a term of office enters an  
21 armed service of the United States shall be given service credit  
22 for periods of active duty subject to the following conditions:

23 (1) the member returns to office within ninety  
24 days following termination of the period of active duty;

25 (2) the member reinstates any forfeited service

1 credit;

2 (3) service credit shall not be given for  
3 periods of active duty following voluntary re-enlistment; and

4 (4) service credit shall not be given for  
5 periods of active duty that are used to obtain or increase a  
6 benefit from another state system or the educational retirement  
7 system.

8 E. A member who entered an armed service of the  
9 United States may purchase service credit for periods of active  
10 duty subject to the following conditions:

11 (1) the member pays the purchase cost  
12 determined pursuant to the provisions of Subsection F of this  
13 section;

14 (2) the member has five or more years of  
15 service credit accrued according to the provisions of the  
16 Judicial Retirement Act;

17 (3) the aggregate amount of service credit  
18 purchased pursuant to the provisions of this subsection does not  
19 exceed five years, reduced by any period of service credit  
20 acquired for military service under any other provision of the  
21 Judicial Retirement Act; and

22 (4) service credit may not be purchased for  
23 periods of active duty that are used to obtain or increase a  
24 benefit from another state system or the educational retirement  
25 system.

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1 F. The purchase cost for each year of service credit  
2 purchased pursuant to the provisions of this section shall be  
3 the increase in the actuarial present value of the pension of  
4 the member under the Judicial Retirement Act as a consequence of  
5 the purchase, as determined by the association. ~~[Full]~~ Payment  
6 shall be made in a single lump-sum amount or by entering into an  
7 installment contract with the retirement board in accordance  
8 with procedures and terms established by the board. Installment  
9 contracts may be paid by payroll deduction. The retirement  
10 board is authorized to set the rate of interest to be charged in  
11 installment contracts. Except as provided in Subsection G of  
12 this section, seventy-five percent of the purchase cost shall be  
13 considered to be employer contributions and shall not be  
14 refunded to the member in the event of cessation of membership.

15 G. A member shall be refunded, after retirement and  
16 upon written request filed with the association, the portion of  
17 the purchase cost of service credit purchased pursuant to the  
18 provisions of this section that the association determines to  
19 have been unnecessary to provide the member with the maximum  
20 pension applicable to the member. The association shall not pay  
21 interest on the portion of the purchase cost refunded to the  
22 member. "

23 Section 4. Section 10-12C-5 NMSA 1978 (being Laws 1992,  
24 Chapter 118, Section 5) is amended to read:

25 "10-12C-5. SERVICE CREDIT--REINSTATEMENT OF FORFEITED

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1 SERVICE-- PRIOR SERVICE-- MILITARY SERVICE. --

2 A. Personal service rendered by a member shall be  
3 credited to the member's service credit account in accordance  
4 with board rules and regulations. Service shall be credited to  
5 the nearest month. In no case shall any member be credited with  
6 a year of service for less than twelve months of service in any  
7 calendar year or more than a month of service for all service in  
8 any calendar month or more than a year of service for all  
9 service in any calendar year.

10 B. Service credit shall be forfeited if a member  
11 leaves office and withdraws the member's accumulated member  
12 contributions. A member or former member who is a member of  
13 another state system or the educational retirement system who  
14 has forfeited service credit by withdrawal of member  
15 contributions may reinstate the forfeited service credit by  
16 repaying the amount withdrawn plus compound interest from the  
17 date of withdrawal to the date of repayment at a rate set by the  
18 board. Withdrawn member contributions may be repaid in  
19 increments of one year in accordance with procedures established  
20 by the board. ~~Full~~ Payment of each one-year increment shall  
21 be made in a single lump-sum amount or by entering into an  
22 installment contract with the retirement board in accordance  
23 with procedures and terms established by the board. Installment  
24 contracts may be paid by payroll deduction. The retirement  
25 board is authorized to set the rate of interest to be charged in

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1 installment contracts.

2 C. Service credit that a member would have earned if  
3 the member had not elected to be excluded from membership may be  
4 purchased if the member pays the purchase cost determined  
5 pursuant to the provisions of Subsection F of this section.

6 D. A member who during a term of office enters an  
7 armed service of the United States shall be given service credit  
8 for periods of active duty subject to the following conditions:

9 (1) the member returns to office within ninety  
10 days following termination of the period of active duty;

11 (2) the member reinstates any forfeited service  
12 credit;

13 (3) service credit shall not be given for  
14 periods of active duty following voluntary re-enlistment; and

15 (4) service credit shall not be given for  
16 periods of active duty that are used to obtain or increase a  
17 benefit from another state system or the educational retirement  
18 system.

19 E. A member who entered an armed service of the  
20 United States may purchase service credit for periods of active  
21 duty subject to the following conditions:

22 (1) the member pays the purchase cost  
23 determined pursuant to the provisions of Subsection F of this  
24 section;

25 (2) the member has five or more years of

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1 service credit accrued according to the provisions of the  
2 Magistrate Retirement Act;

3 (3) the aggregate amount of service credit  
4 purchased pursuant to the provisions of this subsection does not  
5 exceed five years, reduced by any period of service credit  
6 acquired for military service under any other provision of the  
7 Magistrate Retirement Act; and

8 (4) service credit may not be purchased for  
9 periods of active duty that are used to obtain or increase a  
10 benefit from another state system or the educational retirement  
11 system.

12 F. The purchase cost for each year of service credit  
13 purchased pursuant to the provisions of this section shall be  
14 the increase in the actuarial present value of the pension of  
15 the member under the Magistrate Retirement Act as a consequence  
16 of the purchase, as determined by the association. [Full]  
17 Payment shall be made in a single lump-sum amount or by entering  
18 into an installment contract with the retirement board in  
19 accordance with procedures and terms established by the board.  
20 Installment contracts may be paid by payroll deduction. The  
21 retirement board is authorized to set the rate of interest to be  
22 charged in installment contracts. Except as provided in  
23 Subsection G of this section, seventy-five percent of the  
24 purchase cost shall be considered to be employer contributions  
25 and shall not be refunded to the member in the event of

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1 cessation of membership.

2 G. A member shall be refunded, after retirement and  
3 upon written request filed with the association, the portion of  
4 the purchase cost of service credit purchased pursuant to the  
5 provisions of this section that the association determines to  
6 have been unnecessary to provide the member with the maximum  
7 pension applicable to the member. The association shall not pay  
8 interest on the portion of the purchase cost refunded to the  
9 member. "

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